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October 6, 2011

VIA FEDEX

Jeff S. Jordan, Esq.
Supervisory Attorney
Complaints Examination and
Legal Administration
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: Matter Under Review 6487 (F8 LLC & unidentified individuals)

Dear Mr. Jordan:

This letter is a response by counsel on behalf of F8, LLC ("F8") and unidentified individuals (collectively, "Respondents") to the complaint in Matter Under Review ("MUR") 6487 received by F8 on August 22, 2011.

The allegations in the complaint are insufficient to show that Respondents violated 2 U.S.C. §§ 441f, 432, 433, or 434. The Commission should note at the outset that complainants' alleged "reason to believe" the above-alleged violations took place is based entirely "on published reports." The complaint, however, cites only one online news story which does not substantiate the complainants' claims. According to complainants' allegations, the media report that provides the sole basis for this complaint merely conveyed that F8 "do[es]n't appear to do any substantial business,"¹ has "no presence on the internet,"² and its registered address is that of an accounting firm.³ The complaint identifies "person(s) who created, operated and/or contributed to F8 LLC,"⁴ but provides no factual basis for the identity of those persons, their alleged involvement in the alleged violations, or even whether such persons exist. With this report as complainants' sole basis for alleging violations, it is clear that the complaint is little more than sheer speculation.

¹ Complaint at ¶ 5.

² *Id.* at ¶ 9.

³ *Id.*

⁴ *Id.* at ¶ 2.

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Far more is required to justify an FEC inquiry than that which complainants have alleged. If such a scant set of allegations were adequate to justify an FEC investigation, every corporate donation conceivably could trigger an FEC investigation based upon the claim that the corporation's business activities were unknown. That is clearly not the purpose of the Act, nor is it the role of the FEC in enforcing the Act to pursue such factually inadequate claims. Both to conserve the Commission's resources and avoid putting Respondents through a burdensome and costly ordeal of an inquiry founded on such a weakly-based complaint, this matter should be closed.

In addition to lacking even the most minimal basis in fact, the complaint should be dismissed because the allegations therein are without legal merit. As a threshold matter, the subject funds were provided to Restore Our Future ("ROF"), an independent-expenditure political action committee that is registered with the FEC. No basis is asserted in the complaint upon which to conclude that ROF's reporting and disclosure obligations have not been or will not be met in connection with the subject transactions.

Although the complaint alleges that F8 provided funds to ROF, nothing in the complaint suggests that the funds F8 provided to Restore Our Future are from any source other than its corporate funds, a lawful transaction on its face.

Additionally, the complaint fails to allege any basis to conclude that F8 is a political action committee. F8 LLC is Utah Limited Liability Company that was created in 2008. Since its formation in 2008, F8 had not donated any money to a political candidate, campaign, or committee until its donation to the Restore Our Future political committee. Complainants' wholly unsupported claim that F8 is a "political committee" fails because on its face the company's business purpose is commercial, not political. Therefore, the organization, registration, and disclosure requirements set forth in 2 U.S.C. §§ 432, 433, and 434 do not apply to the company.

The complaint does not allege that at anytime since its formation, F8 has received contributions or made expenditures, required indicia of a "committee." See 2 U.S.C. § 431(4)(A); 11 C.F.R. § 100.5(a). The complaint does not allege that F8 ever endorsed any candidate for federal office. Nor does it allege any facts that could support a conclusion that F8 is anything other than a business entity whose major purpose is to engage in commerce, not to influence the "nomination or election of a candidate" for federal office as would be required for it to constitute a political action committee. See *Buckley v. Valeo*, 424 U.S. 1, 79 (1976); FEC Advisory Opinion 2009-13 at 5 (concluding an LLC was not a "political committee" under the Act because it was "organized and operated for commercial purposes and not for the purpose of nominating or electing a candidate").

The only proffered basis for the allegation that F8 is a political committee is a single media report suggesting that "F8 . . . doesn't seem to do any business" because the company does not have an internet presence and employees at a separate accounting firm operating at the company's address reportedly "weren't aware of the company[y]'s activities."⁵ The complaint

⁵ Complaint at ¶ 9.

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simply lacks any factual basis to support the speculative claim that F8 is somehow a political action committee.

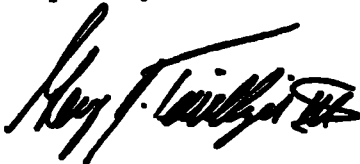
Thus, the single online news report that provides the sole basis for the complaint is insufficient to show that F8 is anything but a commercial business entity. It is certainly not sufficient to make even a prima facie showing that F8 is a political action committee and thus justify an FEC investigation. See FEC Guidebook for Complainants and Respondents on the FEC Enforcement Process, at 12-13 (stating that a determination of "no reason to believe is appropriate where "a complaint alleges a violation but is either not credible or so vague that an investigation would be unwarranted").

Because F8 is not a committee, it has no legal obligation to comply with, and therefore could not have violated FECA organization, registration, and disclosure requirements imposed on committees. See 2 U.S.C. §§ 432, 433, or 434.

For the foregoing reasons, there is no reason to believe that F8 violated any laws as alleged in the complaint. This matter should, therefore, be dismissed as it lacks factual support and legal merit.

If the FEC requires any additional information or clarifications from F8 to evaluate the allegations in this matter, please do not hesitate to contact me. I will be glad to supplement this response, as needed or if requested by the Commission or its staff.

Respectfully submitted,



George J. Terwilliger III